

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARCIE A. ROGAN and JAMES N.)	
RAISLEY, <i>Co-Administrators of the</i>)	Civil Action No. 12 - 1375
<i>Estate of Kathleen Ann Rogan,</i>)	
<i>Deceased,</i>)	District Judge Mark R. Hornak
)	Chief Magistrate Judge Lisa Pupo Lenihan
Plaintiff,)	
)	
v.)	
)	
COUNTY OF LAWRENCE,)	
PENNSYLVANIA, BRIAN COVERT,)	
<i>Warden of the Lawrence County</i>)	
<i>Correctional Facility, JOHN DOE #1,</i>)	
<i>Lawrence County Correctional Facility</i>)	
<i>Employee, PRIME CARE MEDICAL,</i>)	
<i>INC., JOHN DOE #2, Physician</i>)	
<i>Employee, JOHN DOE #3, Medical</i>)	
<i>Specialist Employee of Prime Care</i>)	
<i>Medical Inc.,</i>)	
)	
Defendants.)	

MEMORANDUM ORDER

This case is before the Court on the pending Report and Recommendation filed by Chief Magistrate Judge Lenihan on June 5, 2013. (ECF No. 26.) Judge Lenihan recommended that the Partial Motion to Dismiss filed by Lawrence County and Warden Covert (ECF No. 10) be granted in part and denied without prejudice in part. The parties were served with the Report and Recommendation and informed that they had until June 24, 2013, to file written objections. No objections were filed. Therefore, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered.

AND NOW, this 2nd day of July, 2013,

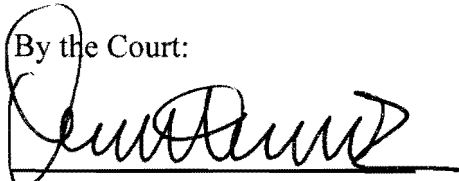
IT IS HEREBY ORDERED that the Partial Motion to Dismiss filed by Lawrence County and Warden Covert (ECF No. 10) is **GRANTED** in part and **DENIED without prejudice** in part. The motion is granted as follows:

- (1) Plaintiff's wrongful death (Count 7) and survival (Count 8) claims against Lawrence County and Warden Covert in his official capacity are dismissed.
- (2) All Counts against all Defendants are dismissed to the extent Plaintiffs bring suit in their own right.
- (3) Plaintiff Raisley's wrongful death claim asserted on behalf of his minor child is dismissed.
- (4) Plaintiffs' claims against Warden Covert (Counts 7 and 8) in his official capacity are dismissed as being duplicative of the claims against Lawrence County.
- (5) Plaintiffs' state-created danger claims against John Doe #1 (Count 3) and Lawrence County (Count 4) are dismissed.
- (6) Plaintiffs' "special relationship" claim against John Doe #1 and Lawrence County (Count 5) is dismissed.
- (7) Plaintiffs' claim for punitive damages against Lawrence County and Warden Covert in his official capacity is dismissed.

The motion is denied without prejudice as to Plaintiffs' remaining claims asserted against John Doe #1 (Counts 1, 7 and 8).

IT IS FURTHER ORDERED that the Report and Recommendation dated June 5, 2013 (ECF No. 26) is **ADOPTED** as the opinion of this Court.

AND IT IS FURTHER ORDERED that this case is remanded back to the Chief Magistrate Judge for all further pretrial proceedings.

By the Court:

Mark R. Hornak
United States District Judge

cc: Counsel of Record
(Via ECF Electronic Mail)